

JFL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CODY COLEMAN

Plaintiff

v.

*Milwaukee Tool, Inc.**Defendant*

CIVIL ACTION

19**356**

JURY TRIAL DEMANDED

NO.:

NOTICE OF REMOVAL

Defendant, Milwaukee Electric Tool Corporation (incorrectly named "Milwaukee Tool, Inc."), (hereinafter "Milwaukee Electric") by and through its attorneys, Sweeney & Sheehan, P.C., hereby files this Notice of Removal of this action from the Court of Common Pleas of Philadelphia County to the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. §§1332, 1441 and 1446. The basis for the removal of this action is that there is diversity of citizenship and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

In support of its removal, Milwaukee Electric states:

1. A Civil Action seeking to recover monetary damages has been commenced in the Court of Common Pleas of Philadelphia County, where Cody Coleman is the Plaintiff and Milwaukee Electric Tool Corporation (incorrectly named "Milwaukee Tool, Inc."), is named as Defendant, and which action is designated with Civil Action No. 181201616. A copy of Plaintiff's Complaint is attached hereto, made a part hereof, and marked as Exhibit "A".

2. According to the Complaint, Cody Coleman was injured while using a "rotary hammer drill known as SDS-MAX." See Exhibit "A" ¶¶3, 12.

3. There is no entity known as Milwaukee Tool, Inc., and the proper entity to sue regarding a SDS-MAX rotary hammer is Milwaukee Electric Tool Corporation (hereinafter "Milwaukee").

4. Upon information and belief, Plaintiff effectuated service of the Complaint on Milwaukee Electric on or about December 27, 2018.

5. This Notice of Removal is being filed within thirty (30) days after service of the Complaint on Removing Defendant. Therefore, removal is timely under 28 U.S.C. §1446(b).

6. A civil action brought in a State Court over which the District Courts of the United States have original jurisdiction may be removed by the defendants to the District Court of the United States for the district and division embracing the place where such action is pending. 28 U.S.C. §1441(a).

7. This litigation is a civil action over which this Court has original jurisdiction under 28 U.S.C. §1332, and is one which may be removed to this Court by Removing Defendant pursuant to the provisions of 28 U.S.C. §1441, in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

8. Both at the time Plaintiff filed his Complaint, and presently, Cody Coleman is and was a citizen of the Commonwealth of Pennsylvania, residing at 311 Marshall Drive, Reading, Pennsylvania, 19607. See Exhibit "A" at ¶1. As such, Plaintiff is a citizen of the Commonwealth of Pennsylvania.

9. At the time of the filing of the Complaint, and presently, Defendant, Milwaukee Electric is a corporation organized and existing under the laws of the State of Delaware, with its

principal place of business at Brookfield, Wisconsin. As such, Milwaukee Electric is a citizen of the states of Delaware and Wisconsin.

10. Milwaukee Electric is not a citizen of Pennsylvania.

11. Plaintiff alleges he was injured while using the aforementioned SDS-MAX rotary hammer. Exhibit "A" at ¶12.

12. Plaintiff further alleges that he sustained "serious and permanent injuries to his face, including scarring and hair loss. Plaintiff also suffered from dizziness, severe headaches, and other physical and mental injuries." Exhibit A at ¶17.

13. Plaintiff also alleges that, as a result of the aforesaid accident, he sustained "severe physical pain and trauma, mental upset, loss of memory, anguish and humiliation, and may continue to suffer the same for an indefinite time into the future on a permanent basis." Exhibit A at ¶18.

14. Plaintiff further alleges that, as a result of the aforesaid accident, he "suffered a diminution in his ability to enjoy life and life's pleasures, all of which will continue indefinitely in to the future on a permanent basis." Exhibit A at ¶19.

15. In addition, in his ad damnum clause, Plaintiff requests punitive damages and attorneys' fees. See Exhibit "A" Request for Relief.

16. Based on the damages claimed in Plaintiff's Complaint, and Plaintiff's claim that he is seeking "an amount in excess of Fifty Thousand (\$50,000) Dollars," Removing Defendant believes that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

15. The amount in controversy requirement of 28 U.S.C. §1332 is, therefore, satisfied on the face of Plaintiff's Complaint.

16. By reason of the amount in controversy and the complete diversity of citizenship between the plaintiff and the defendant, this action is within the original jurisdiction of this Court pursuant to 28 U.S.C. §1332(a).

17. Accordingly, this action is removable from the Court of Common Pleas of Philadelphia County, Pennsylvania to this Court pursuant to 28 U.S.C. §1332(a)(1) and §1441(a).

18. The matter is being removed to the United States District Court for the Eastern District of Pennsylvania because Philadelphia County is within the Eastern District.

19. Venue is appropriate under 28 U.S.C. §1391 because this judicial district is where the cause of action arose.

20. Written notice of the filing of the Notice of Removal has been given to Plaintiff's counsel in accordance with 28 U.S.C. §1446(d) promptly with the filing of the instant pleading in Federal Court.

21. A copy of the Notice of Removal is being filed simultaneously with the Court of Common Pleas of Philadelphia County in accordance with 28 U.S.C. §1446(d).

22. This Notice of Removal is being filed pursuant to the provisions of 28 U.S.C. §1441) within thirty (30) days after service of the first served Defendant and this case is, therefore, removable pursuant to 28 U.S.C. §1446(a) and (b).

23. In accordance with 28 U.S.C. §1446(a), Removing Defendant has attached and filed with the Clerk of this court, true and legible copies of all process, pleadings, orders and other

papers which have been served on Removing Defendant filed with the Court of Common Pleas of Philadelphia County, Pennsylvania. See Exhibit "A".

24. If any questions should arise as to the propriety of the removal of this action, Milwaukee Electric requests the opportunity to brief any disputed issues and to present oral argument in support of its position that this case has been properly removed.

WHEREFORE, Defendant, Milwaukee Electric Tool Corporation, requests that the Philadelphia Court of Common Pleas action captioned as aforesaid, be removed from that Court to the Federal District Court in and for the Eastern District of Pennsylvania for trial and determination of all issues for the reasons stated above.

SWEENEY & SHEEHAN, P.C

By: 

Warren E. Voter
Identification No. 38410
Attorney for Defendant,
Milwaukee Electric Tool
Corporation (incorrectly named
"Milwaukee Tool, Inc.")
19th Floor, 1515 Market Street
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DATE: JANUARY 24, 2019

JFL

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CODY COLEMAN

Plaintiff

v.

Milwaukee Tool, Inc.

Defendant

CIVIL ACTION

JURY TRIAL DEMANDED

NO.:

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356

PROOF OF SERVICE

I, Warren E. Voter, hereby certify that service of the foregoing **NOTICE OF REMOVAL** was made upon all interested counsel in the above matter by the United States First Class Mail on JANUARY 24, 2019.



WARREN E. VOTER

JFL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CODY COLEMAN

Plaintiff

v.

Milwaukee Tool, Inc.

Defendant

CIVIL ACTION

JURY TRIAL DEMANDED

19

356

NO.:

PROOF OF FILING

I, **WARREN E. VOTER**, hereby certify that the foregoing **NOTICE OF REMOVAL** was forwarded to be filed with the Court of Common Pleas of Philadelphia County on JANUARY 24, 2019.

Warren E. Voter

WARREN E. VOTER

JFL

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CODY COLEMAN

Plaintiff

v.

Milwaukee Tool, Inc.

Defendant

CIVIL ACTION

JURY TRIAL DEMANDED

NO.:

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3564

**NOTICE TO PLAINTIFF OF THE FILING OF A
NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT**

TO: Michael Boland, Esquire
777 So. Broad Street, #208
Philadelphia, PA 19147

DATE: JANUARY 24, 2019

Please take notice that Defendant, Milwaukee Electric Tool Corporation (incorrectly named "Milwaukee Tool, Inc."), has filed a Notice of Removal in the United States District Court for the Eastern District of Pennsylvania for Removal of an action now pending in the Court of Common Pleas of Philadelphia County, entitled Cody Coleman v. Milwaukee Tool, Inc., December Term, 2018, No. 1616.

A copy of the said Notice of Removal is attached to this Notice and is hereby served upon
you.

SWEENEY & SHEEHAN, P.C.

By: 

Warren E. Voter

Identification No. 38410

Attorney for Defendant,

Milwaukee Electric Tool Corporation

(incorrectly named "Milwaukee Tool, Inc.")

19th Floor, 1515 Market Street

Philadelphia, PA 19102

(215) 563-9811 – Telephone

(215) 557-0999 – Facsimile

warren.voter@sweeneyfirm.com

DATE: JANUARY 24, 2019

SWEENEY & SHEEHAN, P.C.

By: Warren E. Voter, Esquire

Identification No. 38410

Nineteenth Floor

1515 Market Street

Philadelphia, PA 19102

(215) 563-9811

Attorney for: Defendant,
Milwaukee Electric Tool
Corporation (incorrectly
named "Milwaukee Tool, Inc.")

CODY COLEMAN

Plaintiff

v.

MILWAUKEE TOOL, INC.

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COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

DECEMBER TERM, 2018

NO.: 1616

PRAECIPE TO TRANSFER

TO THE PROTHONOTARY:

Kindly transfer this case from the Court of Common Pleas of Philadelphia County to the
United States District Court for the Eastern District of Pennsylvania.

SWEENEY & SHEEHAN, P.C.

By: 

Warren E. Voter
Attorney for Defendant,
Milwaukee Electric Tool
Corporation (incorrectly
named "Milwaukee Tool, Inc.")

DATE: JANUARY 24, 2019